



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

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DIRECTOR

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Date Mailed: July 11, 2024
MOAHR Docket No.: 24-005554
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Julia Norton

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on June 27, 2024. Petitioner was present and self-represented. The Department of Health and Human Services (Department) was represented by Shyla Coleman, Eligibility Specialist.

ISSUE

Did the Department properly determine Petitioner's son's Medicaid (MA) eligibility?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner is married to Spouse, they have two children (Daughter and Son) and live together in ██████████ Michigan.
2. Daughter is █ years old and Son is █ years old.
3. Petitioner applied for MA coverage for Daughter and Son on ██████████ 2024 and on ██████████ 2024.
4. On April 5, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) informing Petitioner that Daughter was eligible for MA coverage with a deductible of \$5,004.00 for February 2024 and full coverage MA effective March 1, 2024 ongoing, and Son was eligible for MA with a deductible. Exhibit A, pp. 14-17.

5. Son's deductible was \$5,004.00 for February 2024; \$5,343.00 for March 2024; and \$5,480.00 for April 1, 2024 ongoing. Exhibit A, pp. 14-17.
6. On May 8, 2024, the Department received Petitioner's request for hearing disputing the Department's determination of Son's MA eligibility. Exhibit A, p.3.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, Petitioner disputes the Department's determination of Son's eligibility for MA Group 2 Under 21 (G2U) coverage with a monthly deductible of \$5,004.00 for February 2024; \$5,343.00 for March 2024; and \$5,480.00 for April ongoing.

MA is available (i) under SSI-related categories to individuals who are aged (65 or older), blind or disabled, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage, which is limited to individuals between the ages of 18 and 64, and (iv) to individuals who meet the eligibility criteria for Plan First Family Planning (PFFP) coverage. 42 CFR 435.911; 42 CFR 435.100 to 435.172; BEM 105 (January 2024), p. 1; BEM 137 (January 2024), p. 1; BEM 124 (July 2023), p. 1. Under federal law, an individual eligible under more than one MA category must have eligibility determined for the category selected and is entitled to the most beneficial coverage available, which is the one that results in eligibility and the least amount of excess income or the lowest cost share. BEM 105, p. 2; 42 CFR 435.404.

Son is ■ years old and is therefore potentially eligible for full coverage MA under two MA categories: Under Age 19 (U19) or MICHild.

U19 is MAGI-related MA category that includes Other Healthy Kids (OHK) and the Healthy Kids Expansion (HKE). OHK and HKE are available to children under the age of 19 whose household income does not exceed 160% of the Federal Poverty Level (FPL). Both programs are defined by age, household income, and whether the child has other

comprehensive insurance. BEM 131 (January 2022), pp. 1-2. MICHild is a MAGI-related Medicaid Expansion program for children who are under 19 years of age and who are not enrolled in comprehensive health insurance. BEM 130 (January 2024), p. 1. Income eligibility exists when income does not exceed 212% of the FPL.

An individual is eligible for OHK and HKE if the household's MAGI-income does not exceed 160% of the FPL applicable to the individual's group size. An individual's group size for MAGI purposes requires consideration of the individual's tax filing status and dependents. Son does not file taxes but is claimed as a dependent by Petitioner and Spouse. Petitioner and Spouse file taxes jointly and only claim Son. Therefore, Son has a household size of three. BEM 212 (October 2023), p. 2. The FPL for a group size of three is \$25,820.00. See <https://aspe.hhs.gov/poverty-guidelines>. 160% of the annual FPL for a household of three is \$41,312.00. Therefore, to be income eligible under a U-19 MA program, Son's annual income cannot exceed \$41,312.00 or \$3,442.66 monthly. Additionally, Department policy provides that, for MAGI-related MA policies, if an individual's group's income is within 5% of the FPL for the applicable group size, a disregard is applied, making the person eligible for MA. BEM 500 (April 2022), pp. 3-5. With the 5% disregard applied, the household income limit is \$42,603.00, or \$3,550.25 monthly.

An individual is eligible for MICHild if the household's MAGI-income does not exceed 212% of the FPL applicable to the individual's group size. 212% of the FPL for a household size of three is \$54,738.40. Therefore, to be income eligible for MICHild, Son's annual income cannot exceed \$54,738.40 or \$4,561.53 monthly. With the 5% disregard applied, the household income limit is \$56,029.40, or \$4,669.11 monthly.

To determine financial eligibility for Under Age 19 and MICHild, income must be calculated in accordance with MAGI under federal tax law. 42 CFR 435.603(e); BEM 500, p. 3. MAGI is based on Internal Revenue Service rules and relies on federal tax information. *Id.* To determine income in accordance with MAGI, a client's adjusted gross income (AGI) is added to any tax-exempt foreign income, tax-exempt Social Security benefits, and tax-exempt interest. AGI is found on line 11 of IRS tax forms 1040, 1040-SR, and 1040-NR. Alternatively, it is calculated by taking the "federal taxable wages" for each income earner in the household as shown on the paystub or, if not shown on the paystub, by using gross income before taxes reduced by any money the employer takes out for health coverage, childcare, or retirement savings. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>. When determining financial eligibility of current beneficiaries for MAGI-related MA, the State of Michigan has elected to base eligibility on current monthly household income and family size and further consider reasonably predictable changes in income. Michigan Medicaid State Plan Amendment Transmittal 17-0100, effective November 1, 2017 and approved by the Center for Medicare and Medicaid Services on March 13, 2018, available at https://www.michigan.gov/mdhhs/-/media/Project/Websites/mdhhs/Folder3/Folder80/Folder2/Folder180/Folder1/Folder280/SPA_17-0100_Approved.pdf.

Here, Petitioner and Spouse provided check stubs the Department used to calculate income. The Department testified it calculated Petitioner's income based on the following bi-weekly check dates and gross amounts: [REDACTED], 2024 for \$[REDACTED] [REDACTED], 2024 for \$[REDACTED] [REDACTED] 2024 for \$[REDACTED] Exhibit A, pp. 8-9. The Department used Equifax to verify the January 19, 2024 earnings. Petitioner testified she had no deductions for insurance or retirement savings. Petitioner's gross monthly income for February 2024 was \$3,594.39. At the hearing, Petitioner reported that her hours may fluctuate and she was informed she may report income changes to the Department for review. Spouse's monthly income was based on the following bi-weekly check dates and gross amounts: [REDACTED] \$[REDACTED] [REDACTED] 2024 for \$[REDACTED] [REDACTED], 2024 for \$[REDACTED]; and [REDACTED], 2024 for \$[REDACTED] Exhibit A, pp.10-13. Although Petitioner testified that Spouse pays for health insurance, she did not know the amount or which deduction on Spouse's check was for a health insurance. Spouse's gross monthly income for [REDACTED] 2024 was \$[REDACTED] and for [REDACTED] 2024 was \$[REDACTED]

Petitioner and Spouse's combined monthly MAGI for [REDACTED] 2024 was \$[REDACTED] (\$[REDACTED]+\$[REDACTED]). Because Petitioner had not reported fluctuating income prior to the hearing, Petitioner's February income was also used as her March income. Petitioner and Spouse's combined monthly MAGI for [REDACTED] 2024 was \$[REDACTED] (\$[REDACTED]+\$[REDACTED]).

The household's monthly MAGI income for both [REDACTED] (\$[REDACTED]) and [REDACTED] (\$[REDACTED]) exceeds the monthly income limits for both Under Age 19 and MICHild eligibility. Thus, the Department properly determined that Son's income exceeded the income limits for full coverage MA Under Age 19 and MICHild.

Though Son has excess income for full MA coverage, he may be eligible for the Group 2 under-21 deductible plan (G2U). G2U is a Group 2 MA program available to individuals under age 21 who meet program eligibility factors. BEM 132 (April 2018), p.1. Group 2 eligibility for MA coverage is possible even when net income exceeds the income limit for full MA coverage. BEM 105 (January 2024), p. 1. In such cases, the client is eligible for MA coverage with a deductible, with the deductible equal to the amount the individual's net income (countable income minus allowable income deductions) exceeds the applicable Group 2 MA protected income level (PIL), which is based on the client's shelter area (county in which the client resides) and fiscal group size. BEM 135 (October 2015), p. 2; BEM 544 (January 2020), p. 1; RFT 240 (December 2013), p. 1.

For purposes of Group 2 MA eligibility, a child's fiscal group is the child and the child's parents. BEM 211 (October 2023), p. 8. Therefore, Son has a group size of three. Because Son lives in [REDACTED] County and his group size is 3, his PIL is \$532.00. RFT 200 (April 2017); RFT 240, p. 1. Thus, if the household's net income, calculated in accordance with BEM 536 (July 2019), pp. 1-7, exceeds \$532.00, Son is eligible for MA assistance under the deductible program, with the deductible equal to the amount that the group's monthly income exceeds \$532.00.

Net income for each group member is calculated by reducing gross income by allowable needs deductions for guardianship/conservator expenses, a standard work expense of \$90.00, \$30.00 plus 1/3 disregard for individuals with earnings who received Family Independence Program (FIP) in the previous year, dependent care expenses, and child support expenses. BEM 536, pp. 1-3. Both Petitioner and Spouse were eligible for a \$90.00 earned income deduction. No evidence was presented that Petitioner or Spouse had received FIP, had dependent care expenses or child support expenses.

For February, the Department's budget shows that Petitioner's prorated income is \$593.00, and Spouse's prorated income is \$537.00. Exhibit A, p. 19. An adult's prorated income is determined by dividing monthly budgetable income, calculated in accordance with BEM 536, pp. 1-4, by the adult's applicable prorate divisor, which is the sum of 2.9 and the number of dependents living with the adult. BEM 536, p. 4. For purposes of determining the prorate divisor, dependent means the adult's spouse and unmarried children under age 18. BEM 536, p. 4.

In this case, Petitioner and Spouse are married, and they live with their minor child, Son and adult Daughter. Based on her age, Daughter is not considered a dependent. Therefore, Petitioner and Spouse each have two dependents and their prorate divisor is 2.9 plus two, or 4.9.

Using the check stubs the Department presented for Petitioner's and Spouse's monthly gross incomes, subtracting the \$90.00 earned income disregard, and dividing by the 4.9 prorate divisor, does not result in prorated incomes of \$593.00 or \$537.00. The Department incorrectly determined Petitioner's and Spouse's February prorated income. The Department also provide prorated income calculations for March, April and May 2024, however, none of the calculations aligned with the income information presented by the Department. Because prorated income is used to determine the G2U deductible, the Department failed to satisfy its burden of showing that it properly calculated Petitioner's and Spouse's G2U deductible amounts.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Son's MA eligibility.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine Son's G2U deductible effective February 1, 2024 ongoing; and
2. Provide Petitioner notice of its decision in writing.



JN/pt

Julia Norton
Administrative Law Judge

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via-Electronic Mail:

DHHS

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Interested Parties

BSC4
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Via-First Class Mail:

Petitioner

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